

# **EXHIBIT 5**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

TASER INTERNATIONAL, INC., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Case No.: 1:10-CV-03108-JOF
	)	
v.	)	[On removal from the State
	)	Court of Fulton County,
	)	Georgia Case No.:
MORGAN STANLEY & CO., INC., <i>et al.</i> ,	)	2008-EV-004739-B]
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' FIRST REQUESTS FOR ADMISSION TO DEFENDANT  
MERRILL LYNCH PROFESSIONAL CLEARING CORP.**

Pursuant to Fed. R. Civ. P. 26 and Fed. R. Civ. P. 36,<sup>1</sup> Plaintiffs hereby serve the following requests for admission, requesting that Defendant Merrill Lynch Professional Clearing Corp. provide responses to Plaintiffs at the offices of Bondurant, Mixson & Elmore, 1201 West Peachtree Street, N.W., Suite 3900, Atlanta, Georgia 30309.

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<sup>1</sup> For the reasons set forth in Plaintiffs' Motion for Remand, this case was improperly removed and should be remanded to state court. By serving these requests for admission, Plaintiffs are endeavoring to minimize the prejudice and delay caused by the improper removal. Plaintiffs maintain their objection to the removal and continue to believe that this case should be remanded.

**Definitions and Instructions**

1. “You”, “Your,” “Yourself,” or “ML Pro” designates Merrill Lynch Professional Clearing Corp. and includes any subsidiaries, divisions, affiliates, predecessors, assigns or successors, and of their present or former officers, directors, trustees, employees, agents, representatives, attorneys and/or other persons acting on their behalf. Plaintiffs specifically include the PAX Division, Sage and ML Pro numbers such as ML Pro #s 2, 3 and 5.

2. “TASER” shall mean TASER International, Inc., a company publicly traded on the NASDAQ stock market under the symbol TASS.

3. “Plaintiffs” shall mean the individuals identified as plaintiffs in the caption above, both individually and collectively.

4. “Security” or “Securities” mean any note, common stock, preferred stock, treasury stock, put, call, straddle, option, bond, derivative, right to reserve, conversion, reverse conversion, flex option, IOU of a security, debenture, evidence of indebtedness, transferable share, investment contract or, in general, any interest or instrument commonly known as a “security.”

5. “And” as well as “or” shall be construed disjunctively or conjunctively.

6. The use herein of the singular form of any noun or pronoun shall include, where appropriate, the plural thereof; the use herein of the masculine gender shall include, where appropriate, the feminine.

7. The term “Person” as used herein shall mean an individual, corporation, partnership, or association, or any other business or governmental entity (both foreign and domestic).

8. The term “Person in Georgia” refers to a Person (as that term is defined in (8) above) who: (a) has or had an account with the Defendant that has an address in Georgia; (b) resides or domiciled in Georgia; (c) you know to have made the purchase, sale, loan or borrow request or order from Georgia; (d) receives correspondence, statements or money from the Defendant in Georgia; or (e) for whom the Defendant otherwise knows is in Georgia.

9. “Time Period” refers to January 1, 2003 to and through the present.

### **Requests for Admission**

1.

During the Time Period, you communicated with (including, but not limited to, by sending correspondence or confirming letters and/or emails to) the Securities and Exchange Commission (“SEC”)’s Atlanta, Georgia office with respect to transactions involving TASER securities.

2.

During the Time Period, you conducted business in Georgia.

3.

During the Time Period, you purchased or sold securities traded on the NASDAQ Stock Market as the clearing broker for a Person in Georgia.

4.

During the Time Period, you sent correspondence (i.e., letters, facsimiles, emails or statements) regarding TASER securities.

5.

During the Time Period, you received fees, commissions, interest or other monies in connection with the purchase, sale or clearing of common stock for or on behalf of a Person in Georgia.

6.

During the Time Period, you received fees, commissions, interest or other monies from a Person in Georgia in connection with an open short position of common stock.

7.

During the Time Period, you received a wire or other electronic transfer of money from Georgia relating to the purchase, sale, loan or borrowing of securities.

8.

During the Time Period, you received a wire or otherwise electronic transfer of money from Georgia relating to the purchase, sale, loan or borrowing of any security.

9.

During the Time Period, you sent account statements or other documents reflecting the purchase, sale or ownership of securities to Georgia.

10.

During the Time Period, you sent a stock loan availability list including TASER to a Person in Georgia.

11.

During the Time Period, you cleared a conversion, reverse conversion or flex option transaction for or on behalf of a Person in Georgia.

12.

During the Time Period, you had at least one customer in Georgia.

13.

During the Time Period, you received revenues relating to securities transactions for or on behalf of a Person in Georgia.

14.

During the Time Period, you cleared securities transactions for or on behalf of a Person in Georgia.

15.

During the Time Period, you cleared short sales of securities for or on behalf of a Person in Georgia.

16.

During the Time Period, you received revenues for clearing securities transactions for or on behalf of a Person in Georgia.

17.

During the Time Period, your compliance department was responsible for monitoring or overseeing securities transactions that occurred for or on behalf of a Person in Georgia.

18.

ML Pro's Compliance Department performs monitoring and oversight for Merrill Lynch.

19.

During the Time Period, you sent correspondence to Georgia relating to short sales.

20.

You have sent correspondence, including confirming emails, to Georgia relating to TASER short sales.

21.

You have communicated with Merrill Lynch's offices in Georgia with respect to short sales.

22.

You clear securities transactions for at least one customer in Georgia.

23.

Your broker-dealer clients have Georgia customers whose transactions flow through ML Pro.



24.

Your broker-dealer clients have Georgia customers whose short sales of securities flow through ML Pro.

25.

You have received revenues in connection with those instances in which your broker-dealer clients have Georgia customers whose short sales of securities flow through ML Pro.

26.

You clear securities transactions that are placed from Georgia.

27.

Your Pax Division cleared securities transactions for or on behalf of a person in Georgia.

28.

You have sent money to Georgia relating to a securities transaction.

29.

You have received money from Georgia relating to a securities transaction.

30.

You permit your customers to make securities transactions from Georgia.

31.

You have accepted securities transactions orders from or on behalf of a Person in Georgia.

32.

Your compliance department has reviewed securities transactions from or on behalf of a Person in Georgia.

33.

Merrill Lynch has flipped transactions made for or on behalf of a Person in Georgia to ML Pro.

34.

Merrill Lynch has transferred securities positions made for or on behalf of a Person in Georgia to ML Pro.

35.

During the Time Period, you have at least one contract with a Person in Georgia.

36.

During the Time Period, Sage has cleared securities for or on behalf of a Person in Georgia.

37.

During the Time Period, PAX has cleared securities for or on behalf of a Person in Georgia.

38.

A Person in Georgia has been a counterparty to a securities transaction you cleared.

39.

A Person in Georgia has been a counterparty to a short sale of securities you cleared.

40.

You are registered to do business in Georgia.

41.

You have been registered to do business in Georgia since November 1993.

42.

You clear transactions for customers who have offices in Georgia.

43.

You clear transactions for VT Broker, LLC's Georgia office.

44.

Your broker-dealer clients have Georgia customers who clear through ML Pro.

46.

You have marketed that ML Pro is registered in Georgia.

47.

You have represented to the public that ML Pro is registered in Georgia.

48.

You have sought to obtain customers in Georgia.

49.

You have advertised on the internet to a Person in Georgia.

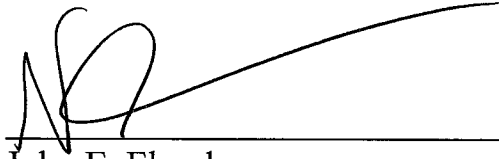
50.

You have marketed ML Pro nationwide.

51.

You earn revenues in connection with clearing securities transactions that are placed in Georgia.

Respectfully submitted this 1st day of November, 2010.

A handwritten signature in black ink, appearing to be 'J. E. Floyd', written over a horizontal line.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I caused to be served a true and correct copy of **PLAINTIFFS' FIRST REQUESTS FOR ADMISSION TO DEFENDANT MERRILL LYNCH PROFESSIONAL CLEARING CORP.** via e-mail and United States mail, with adequate postage thereon and addressed as follows:

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Further, I hereby certify that on this day, I caused to be served a true and correct copy of the foregoing via United States mail on:

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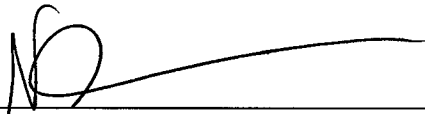
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This 1st day of November, 2010.

  
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